

# **EXHIBIT 9**

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

CLYDE RAY SPENCER, MATTHEW RAY )  
SPENCER and KATHRYN E. TETZ, )  
 )  
Plaintiffs, )

vs. )

No. 11-cv-05424-BHS

)  
FORMER DEPUTY PROSECUTING )  
ATTORNEY FOR CLARK COUNTY JAMES )  
M. PETERS, DETECTIVE SHARON )  
KRAUSE and SERGEANT MICHAEL )  
DAVIDSON, )  
 )  
Defendants. )

VIDEOCONFERENCE DEPOSITION UPON ORAL EXAMINATION  
OF

ARTHUR DAVID CURTIS

DATE TAKEN: December 10, 2012  
TIME: 9:00 a.m.  
PLACE: 613 W. 11th Street  
Vancouver, Washington

COURT REPORTER: Teresa L. Rider, CRR, RPR, CCR

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ARTHUR DAVID CURTIS 12.10.12

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4			6	
ARTHUR DAVID CURTIS 12.10.12			1	A. I'm retired.
EXHIBITS			2	Q. And how long have you been retired?
Exhibit No.	Description	Page	3	A. Almost two years.
24	8-25-10 handwritten notes	5	4	Q. Where did you attend law school and what year
25	12-11-84 videotaped interview of		5	did you graduate?
	Kathryn Spencer	5	6	A. I attended law school at Northwestern School of
26	Information	64	7	Law at Lewis & Clark College in Portland, Oregon. I
27	Handwritten notes	64	8	graduated in 1974.
28	Handwritten notes	64	9	Q. And then when did you become licensed to
29	Handwritten message	64	10	practice law in Washington?
30	6-10-92 letter to Curtis from		11	A. In 1975.
	Goodfriend	64	12	Q. And when were you first elected as the Clark
31	Motion for Order Compelling		13	County prosecutor?
	Disclosure of Medical Records	64	14	A. I was elected in 1981.
32	7-1-92 letter to Goodfriend from		15	Q. How many terms did you serve?
	Curtis	64	16	A. Well, I was appointed -- actually, I was
Rider & Associates, Inc.			17	appointed and then I ran in a special election in 1981.
360.693.4111			18	And then I ran every four years thereafter starting in
			19	1982.
			20	Q. Is it correct, did you serve, then, eight terms
			21	in total?
			22	A. '82, '86, '90, '94, '98, 2002 -- seven full
			23	terms, plus the partial term.
			24	Q. And what year were you appointed?
			25	A. I was appointed in 1981.

5		7	
1	ARTHUR DAVID CURTIS,	1	Q. Can you describe for the record what documents
2	called as a witness in behalf of the Plaintiffs, having	2	you've reviewed to prepare yourself for the deposition
3	been duly sworn, was examined and testified as follows:	3	today?
4	(Deposition Exhibits No. 1 through 25 were	4	A. Well, I was asked to review a number of
5	marked for identification.)	5	documents, some of which I believe were provided by you
6		6	and some provided by my attorneys. There's numerous
7	EXAMINATION	7	documents. I don't know how you want me to explain
8	BY MS. ZELLNER:	8	that.
9	Q. Could you state your full name for the record,	9	Q. Well, we'll just do it document at a time as we
10	including your middle name.	10	identify them for the record.
11	A. Arthur David Curtis.	11	Have you met with any of the defense attorneys
12	Q. And Curtis is spelled with a C?	12	in the case --
13	A. Yes.	13	A. Yes.
14	Q. Just a couple of rules. Let's try to not talk	14	Q. -- prior to -- okay. And who have you met
15	over each other. There's a little bit of problem, just	15	with?
16	with the technology of a lag time, so let me complete my	16	A. Mr. Vellacie and Ms. Fetterly.
17	question before you answer, and I'll try to do the same	17	Q. When did you first meet with Ms. Fetterly?
18	so you can fully answer the question.	18	A. Last week.
19	If you need a break, let us know. And if you	19	Q. And where did that meeting take place?
20	answer a question, I will assume that you understood the	20	A. In Woodland, Washington, at a restaurant.
21	question. If you don't, just tell me and I can rephrase	21	Q. How long did that meeting last?
22	it.	22	A. I think it was an hour, hour and a half.
23	Are those rules clear?	23	Q. Did Ms. Fetterly bring documents for you to
24	A. Yes.	24	review at that point?
25	Q. What is your current occupation?	25	A. Yes.

<p style="text-align: right;">16</p> <p>1 A. Well, generally, as I recall, it was based upon</p> <p>2 the allegations being made by Katie regarding sexual</p> <p>3 activity that she was involved with with Mr. Spencer.</p> <p>4 Q. Was there, other than Katie Spencer's</p> <p>5 allegations, was there any other basis for the probable</p> <p>6 cause to arrest that you're aware of?</p> <p>7 A. Well, whatever would have been included in the</p> <p>8 police reports. I believe there was an interview that</p> <p>9 she had with Sharon Krause and I know that there was a</p> <p>10 written statement that Shirley Spencer had written out,</p> <p>11 several pages long, that I reviewed, and I don't know if</p> <p>12 that was part of the original file or not. I would</p> <p>13 assume it would have been, but I can't say for sure.</p> <p>14 Q. Under Washington law at the time, is it correct</p> <p>15 that Shirley Spencer would not have been able to testify</p> <p>16 to the substance of those allegations but only to the</p> <p>17 fact that sexual abuse had been reported to her?</p> <p>18 A. As I recall 9844 had gone into effect, the</p> <p>19 Child Hearsay Statute in the state of Washington, before</p> <p>20 that incident occurred. That's my recollection.</p> <p>21 Q. So in your opinion, would the Shirley Spencer</p> <p>22 letter describing the allegations, would that have been</p> <p>23 part of the probable cause for the arrest?</p> <p>24 A. If it was incorporated in the police report,</p> <p>25 sure.</p>	<p style="text-align: right;">18</p> <p>1 A. Had I ever talked to Sharon Krause about sexual</p> <p>2 abuse cases?</p> <p>3 Q. Yes. Not this case but just in general, had</p> <p>4 you ever had conversations or meetings with Sharon</p> <p>5 Krause prior to an arrest about a pending investigation</p> <p>6 of a child sexual abuse case?</p> <p>7 A. Oh, sure, I've talked to Sharon Krause all the</p> <p>8 time. She was the go-to person for sex crimes -- child</p> <p>9 sex crimes in the sheriff's office at that time.</p> <p>10 Q. And was it a common practice of yours or your</p> <p>11 deputy prosecutors to have contact with an investigator,</p> <p>12 like Sharon Krause, prior to the arrest of the sex abuse</p> <p>13 case?</p> <p>14 A. Not necessarily prior to the arrest, because</p> <p>15 there was a lot of pending investigations that she may</p> <p>16 have been working on that she wouldn't discuss with us</p> <p>17 until she got to a probable cause situation.</p> <p>18 Q. And do you recall with the Katie Spencer</p> <p>19 allegations prior to January 3rd, 1985, speaking to any</p> <p>20 of the investigators on the case? You said no about</p> <p>21 Sharon Krause, you don't remember, but anyone else that</p> <p>22 was investigating?</p> <p>23 A. No, I don't recall.</p> <p>24 Q. In terms of the involvement of you or your</p> <p>25 deputy prosecutors in the investigation of sex abuse</p>
<p style="text-align: right;">17</p> <p>1 Q. Was there anything else that established</p> <p>2 probable cause for the arrest other than statements made</p> <p>3 by Katie Spencer to, let's say, Shirley Spencer or</p> <p>4 Sharon Krause, was there anything else?</p> <p>5 A. There may have been, but I don't recall.</p> <p>6 Q. Prior to this arrest on January 3rd, 1985, had</p> <p>7 you personally had any contact with Sharon Krause about</p> <p>8 her investigation?</p> <p>9 A. I don't recall.</p> <p>10 Q. When you say you don't recall, does that mean</p> <p>11 you may have but you don't remember?</p> <p>12 A. Yes.</p> <p>13 Q. Or you don't recall actually ever meeting with</p> <p>14 her or talking to her?</p> <p>15 A. No, I don't recall. It was 26 years ago and I</p> <p>16 just don't recall.</p> <p>17 Q. If a police report indicates contact made with</p> <p>18 the prosecutor about polygraphing a woman named Karen</p> <p>19 Stone, do you have any recall of being the prosecutor</p> <p>20 that was contacted about that?</p> <p>21 A. No, I don't.</p> <p>22 Q. Had you, on other cases prior to the arrest,</p> <p>23 had you had any meetings or conversations with</p> <p>24 Investigator Krause? And I'm talking about just sexual</p> <p>25 abuse cases of a child.</p>	<p style="text-align: right;">19</p> <p>1 cases, did you become involved in the investigation of</p> <p>2 those cases prior to the arrest?</p> <p>3 A. No.</p> <p>4 Q. And that would be true of sex abuse cases or</p> <p>5 any other type of investigation, correct?</p> <p>6 A. Pretty much, right.</p> <p>7 Q. Did you ever advise investigators about</p> <p>8 probable cause to arrest? Did they ever seek your</p> <p>9 counsel about whether they had enough to make the</p> <p>10 arrest?</p> <p>11 A. Occasionally.</p> <p>12 Q. Do you remember if they did that on the Ray</p> <p>13 Spencer case prior to the first arrest?</p> <p>14 A. No, I don't recall.</p> <p>15 Q. You said that the initial assignment was made</p> <p>16 to Jim Peters; is that right?</p> <p>17 A. That's my recollection.</p> <p>18 Q. And do you know whether Jim Peters at the time</p> <p>19 you made your assignment to him of the case after the</p> <p>20 arrest, do you know if he'd had any contact with Sharon</p> <p>21 Krause prior to the arrest about the investigation?</p> <p>22 A. I don't recall.</p> <p>23 Q. Do you know if any background investigation was</p> <p>24 ever done of Shirley Spencer?</p> <p>25 A. No, I don't.</p>

<p style="text-align: right;">64</p> <p>1 A. Several times, yes.</p> <p>2 Q. Why did you feel, in the Spencer case, even</p> <p>3 though I'm sure you felt that most of the people that</p> <p>4 you convicted didn't deserve a pardon, but why did you</p> <p>5 feel compelled to write a letter? What was going on at</p> <p>6 that point that made you feel that it would be important</p> <p>7 to write this letter?</p> <p>8 A. Well, because we didn't feel he deserved</p> <p>9 commutation of sentence, let alone pardon.</p> <p>10 Q. And then what was your reaction when the</p> <p>11 governor did grant Mr. Spencer some relief?</p> <p>12 A. Shock and disappointment.</p> <p>13 MS. ZELLNER: If we could take a five-minute</p> <p>14 break, I don't think I have too many more questions. Is</p> <p>15 that okay?</p> <p>16 MR. FREIMUND: Sure.</p> <p>17 (Discussion off the record.)</p> <p>18 (Deposition Exhibits No. 26 through 32 were</p> <p>19 marked for identification.)</p> <p>20 BY MS. ZELLNER:</p> <p>21 Q. I just have one more question. Would you agree</p> <p>22 that after the second information was filed by Mr.</p> <p>23 Peters that he was the lead prosecutor on the Ray</p> <p>24 Spencer case up through the sentencing?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">66</p> <p>1 1, stat rape 1; count 2, at the bottom it has some</p> <p>2 shorthand notations.</p> <p>3 MS. ZELLNER: Yeah, Pat, if we could just, when</p> <p>4 you get to those, have him read those, because our</p> <p>5 copies are really illegible, if you can have him read</p> <p>6 them when they get them.</p> <p>7 MS. FETTERLY: I recognize that. I believe</p> <p>8 they might be from microfilm, that's why.</p> <p>9 29 is a phone message note. It says, To AC,</p> <p>10 4-4, meaning, I guess, April 4th. It says 10:57 a.m.</p> <p>11 The next line says Barbara Linde. So that's 29.</p> <p>12 And 28 is also a photocopy of a notepad. At</p> <p>13 the top is written 4-4-85. And it says at the top, and</p> <p>14 underlined, Barbara Linde.</p> <p>15 And 30 is a letter to Mr. Curtis dated June</p> <p>16 10th, 1992, from Howard Goodfriend.</p> <p>17 31 is a motion for Order Compelling Disclosure</p> <p>18 of Medical Records from Mr. Goodfriend that's dated June</p> <p>19 10th, 1992.</p> <p>20 And 32 is a letter from Mr. Curtis to Mr.</p> <p>21 Goodfriend dated July 1, 1992.</p> <p>22 Are we ready, then?</p> <p>23 MR. FREIMUND: Ready on this end.</p> <p>24 MS. ZELLNER: We're ready.</p> <p>25 ///</p>
<p style="text-align: right;">65</p> <p>1 MS. ZELLNER: I don't have any further</p> <p>2 questions.</p> <p>3 MR. FREIMUND: I have no questions.</p> <p>4 MR. BOGDANOVICH: I do have a couple.</p> <p>5</p> <p>6 EXAMINATION</p> <p>7 BY MR. BOGDANOVICH:</p> <p>8 Q. Mr. Curtis, this is Guy Bogdanovich. I'm the</p> <p>9 attorney for defendant Sharon Krause.</p> <p>10 Had you ever received any complaints from</p> <p>11 either defendants or criminal defense attorneys</p> <p>12 regarding Detective Krause's truthfulness in conducting</p> <p>13 investigations or writing reports?</p> <p>14 A. No.</p> <p>15 MR. BOGDANOVICH: That's all I have.</p> <p>16 MS. FETTERLY: Before I got started, I had the</p> <p>17 reporter mark some of the documents that I had sent. I</p> <p>18 didn't have her mark all of them because many of them</p> <p>19 are duplicative to plaintiffs' counsel's documents.</p> <p>20 I had her mark as Exhibit 26, the copy I sent</p> <p>21 of the information that was dated January 2nd, 1985, and</p> <p>22 filed the next day, January 3rd. So that's 26.</p> <p>23 And I had her mark as 27, it's a photocopy of</p> <p>24 handwritten notes on appears to be a notepad. The top</p> <p>25 says Defendant Clyde Ray Spencer and then it says Count</p>	<p style="text-align: right;">67</p> <p>1 EXAMINATION</p> <p>2 BY MS. FETTERLY:</p> <p>3 Q. Mr. Curtis, I'm handing you what's been marked</p> <p>4 as Exhibit 26, and can you identify that as the</p> <p>5 information that you signed on January 2nd, 1985, in the</p> <p>6 Spencer case?</p> <p>7 A. It's dated January 2nd. It's filed January</p> <p>8 3rd, so I signed it either on the 2nd or the 3rd.</p> <p>9 Q. Comparing a copy of the same document that was</p> <p>10 marked and discussed earlier in your deposition as</p> <p>11 Exhibit 3, but am I correct that the difference between</p> <p>12 the two documents is Exhibit 3 appears to have a</p> <p>13 conformed signature for you, whereas Exhibit 26 has an</p> <p>14 actual signature?</p> <p>15 A. That's correct.</p> <p>16 Q. And is the signature on Exhibit 26 your actual</p> <p>17 signature?</p> <p>18 A. It is.</p> <p>19 Q. There was much discussion earlier about whether</p> <p>20 or not you had reviewed Exhibit 1, which is Rebecca</p> <p>21 Roe's report dated November 27, 1984. Do you recall</p> <p>22 that line of questioning, initial questioning?</p> <p>23 A. Yes.</p> <p>24 Q. And then there was some discussion of exhibits,</p> <p>25 particularly Exhibit 6 and Exhibit 7, and am I correct</p>



<p style="text-align: right;">68</p> <p>1 that Exhibit 6 and 7 is correspondence between you and</p> <p>2 Norm Malang, the King County prosecutor, that is dated</p> <p>3 -- is that January 5th, 1985?</p> <p>4 A. I can't tell if that's January 5th or -- looks</p> <p>5 almost like a 9th.</p> <p>6 Q. Okay. 9th. And then there's a letter to</p> <p>7 Rebecca Roe dated January 9, 1985.</p> <p>8 A. Right.</p> <p>9 Q. These documents are basically thanking Mr.</p> <p>10 Malang for providing a special prosecutor, namely Ms.</p> <p>11 Roe in this case, correct?</p> <p>12 A. Yes.</p> <p>13 Q. In reviewing these documents, and I think there</p> <p>14 were some other testimony, that Mr. Peters expressed</p> <p>15 some reluctance to proceed or saw some problems about</p> <p>16 proceeding to file charges in January of 1985. Does</p> <p>17 that refresh your recollection as to whether or not you</p> <p>18 likely reviewed Exhibit 1, Ms. Roe's report, prior to</p> <p>19 filing the initial charges?</p> <p>20 A. Yes. We specifically asked Ms. Roe to review</p> <p>21 the case for us. And I would find it hard to believe</p> <p>22 that we would ask her to review a case and then not</p> <p>23 review her -- review this letter which incorporates her</p> <p>24 opinions and rationale. It wouldn't make any sense to</p> <p>25 me that I wouldn't have reviewed the letter. But I</p>	<p style="text-align: right;">70</p> <p>1 day or that day, which is the 9 -- I can't read the rest</p> <p>2 of it.</p> <p>3 Q. Would that have been a document, meaning</p> <p>4 Exhibit 27, which was basically your rough draft and</p> <p>5 instructions to staff that went into preparing Exhibit</p> <p>6 26, which was the initial information?</p> <p>7 A. Yes.</p> <p>8 Q. And am I correct that Exhibit 27, other than</p> <p>9 the shorthand at the bottom, was all in your</p> <p>10 handwriting?</p> <p>11 A. Yes.</p> <p>12 Q. Why did you make the decision to file the</p> <p>13 initial charges against Ray Spencer?</p> <p>14 A. Well, I knew that it was a tough case. At the</p> <p>15 time I knew that Mr. Peters had some reservations about</p> <p>16 filing it, even after his interview with Katie Spencer.</p> <p>17 Obviously, Becky Roe had reservations, as well.</p> <p>18 But as I recall, the thing that kept coming</p> <p>19 back to me was the part of her letter, Rebecca Roe's</p> <p>20 letter to us on page 3 where she says here: There are</p> <p>21 several problems. Although I believe child was clearly</p> <p>22 abused and probably by the defendant, the case is</p> <p>23 unwinnable even assuming you can get the child to</p> <p>24 testify -- or to talk.</p> <p>25 I recall that I did not come to the decision to</p>
<p style="text-align: right;">69</p> <p>1 don't have any independent recollection 26 years later</p> <p>2 of having done so.</p> <p>3 Q. But do you believe in reviewing the subsequent</p> <p>4 documents that it's likely you did?</p> <p>5 A. Yes.</p> <p>6 Q. Now, handing you what's been marked as Exhibit</p> <p>7 27, can you identify that, please?</p> <p>8 A. This is a document that I prepared. In the old</p> <p>9 days, we would have yellow pads that we would use to</p> <p>10 write out contents of informations. I put at the top D,</p> <p>11 which is defendant, Clyde Ray Spencer, and then Count 1,</p> <p>12 Count 2, Stat Rape 1, and Indecent Liberties, Count 2.</p> <p>13 I asked my secretary to provide or to compare</p> <p>14 the information alleging the dates of -- on one or more</p> <p>15 occasion between July 18, 1984, and August 26th, 1984,</p> <p>16 and see if CCSofW - which is County of Clark, State of</p> <p>17 Washington - and then I listed the victim as Kathryn E.</p> <p>18 Spencer who was five years of age at the time. Count</p> <p>19 No. 2, Indecent Liberties, I cited the pertinent part of</p> <p>20 the statute. There's a 1(a) and 1(b), which was being</p> <p>21 charged under 1(b), same dates.</p> <p>22 And at the bottom appears shorthand from my</p> <p>23 long-time secretary, Carol Axford, which I don't read</p> <p>24 shorthand so I don't know what it says, other than she</p> <p>25 was -- I probably asked her to docket it for the next</p>	<p style="text-align: right;">71</p> <p>1 file this case lightly. I felt like there were some</p> <p>2 problems with the case, but it was my policy as the</p> <p>3 elected prosecutor to take an aggressive stand in my</p> <p>4 county towards child abusers. And the fact that Becky</p> <p>5 Roe concluded the child was abused, allegations were</p> <p>6 against this specific defendant, I decided that that's</p> <p>7 what juries are for, to make that determination, not for</p> <p>8 me as a prosecutor, to go back to a four-year-old girl</p> <p>9 and say, you know, we believe you were molested as you</p> <p>10 say you were. We believe you, but we're not going to</p> <p>11 believe you of the point of giving you your day in</p> <p>12 court.</p> <p>13 That's the posture I had on many of these sex</p> <p>14 abuse cases in Clark County over the years. We felt</p> <p>15 that if we could win or get convictions on these types</p> <p>16 of cases even 50 percent of the time, we were doing a</p> <p>17 service to the criminal justice system and our</p> <p>18 community. We did get convictions many times on these</p> <p>19 tough cases; sometimes we didn't.</p> <p>20 But I was not going to let my belief that this</p> <p>21 defendant was guilty and that this victim had been</p> <p>22 abused by this defendant to be overridden by a policy of</p> <p>23 not at least giving it our best shot in a court of law.</p> <p>24 Q. Did Jim Peters pressure you to file the initial</p> <p>25 information in January?</p>



<p style="text-align: right;">72</p> <p>1 A. No. In fact, my recollection was that he had 2 some serious reservations, as well. 3 But, again, it was my call. That's why I 4 charged it. Even though he was in charge of -- was 5 going to be in charge of the prosecution, I charged it 6 because I felt like it was going to be a tough case and 7 the buck ultimately stopped with me as the elected 8 prosecutor, and I was willing to sign the information 9 knowing that fact. 10 Q. Did Sharon Krause pressure you to file these 11 charges? 12 A. No. As in all of these cases that I had with 13 Mrs. Krause over the years, her credibility -- her 14 reputation as being one of the best in the country -- I 15 mean, she traveled around with Jim Peters teaching this 16 stuff all over the country. 17 Q. Was this even before these were filed? 18 A. I believe so. In fact, I think Mr. Peters 19 alludes in the one letter from just getting back from 20 Hawaii, because they were doing one of their seminars 21 over there. That's my recollection. That may not be 22 the case. 23 But she had an impeccable reputation with our 24 office. I relied on her and her interview, conclusions 25 substantially in making the decision to file this case.</p>	<p style="text-align: right;">74</p> <p>1 occasion to know or have it be brought to your attention 2 by anyone in law enforcement or by your deputies or by 3 defense lawyers that Ms. Krause had ever fabricated 4 information and put that fabricated information into her 5 reports? 6 A. Absolutely not. 7 Q. Did you ever know of situations where she had 8 coerced child witnesses into making false statements? 9 A. Absolutely not. 10 Q. Now, there's a reference to an interview that 11 Mr. Peters conducted after Ms. Roe made her initial 12 report. Was the purpose of that interview to assist in 13 making the decision whether or not to file charges? 14 A. Yes, because although we certainly respected 15 what Ms. Roe had to say, she did not actually interview 16 Katie in coming to a conclusion. She only reviewed the 17 police report. So we felt it would be very important 18 for Mr. Peters to actually interview her, see whether he 19 agreed with Ms. Roe's assessment or whether he thought 20 the case was prosecutable. 21 Q. Am I correct that that was not part of the 22 ongoing police investigation or an investigation 23 conducted by your office but went strictly to the 24 decision of whether or not to charge? 25 A. No. It was done for the purpose of allowing us</p>
<p style="text-align: right;">73</p> <p>1 I obviously relied on Mr. Peters, as well, but 2 I think we all had reservations when the case was 3 originally filed. And that's why I said that we were 4 delighted when additional victims came forward, 5 unfortunately, on events that occurred after he got 6 released from jail. But we obviously, at that point, 7 felt that we had a very, very strong case. 8 Q. And just so we're clear about the time frame 9 here, I think in response to one of Ms. Zellner's 10 earlier questions, you indicated you first learned about 11 the Spencer case after he was arrested. That would have 12 been, I take it, after January 3rd, 1985, which was the 13 first information. Would you like to amend that answer 14 at this point? 15 A. I don't know the exact date of his arrest. But 16 I was probably informed of the investigation prior to 17 his actual arrest, just because, as I said, as a high 18 profile case, it was a policy by my deputies to keep me 19 informed on things that I might be reading about in the 20 newspaper the next day. 21 Q. So you would have learned about this case 22 before you actually filed the information? 23 A. Yes. If I misspoke, I'm sorry. 24 Q. I just wanted to clarify. 25 Going back to Sharon Krause, had you ever had</p>	<p style="text-align: right;">75</p> <p>1 to do a more thorough assessment on whether or not we 2 thought the case was, in fact, fileable. 3 Q. Thank you. 4 Now, after the new allegations came forward in 5 February, late February 1985, in your view, did that 6 make Ms. Roe's initial concerns moot or somewhat moot? 7 A. Yes. Because at that point, we felt in having 8 three victims instead of one victim, all of whom said 9 they had been separately molested by Mr. Spencer and not 10 just corroborating what they may have seen or not seen 11 with Katie, we had additional victims, additional 12 disclosures, additional incidents, and we felt from a 13 legal standpoint, we would be able to charge the counts 14 all together and try them all together, at which time 15 the jury would hear from all three victims in one trial, 16 which we felt would provide a basis for them to find Mr. 17 Spencer guilty beyond a reasonable doubt. 18 Q. And turning to the omnibus application that was 19 referenced, I think it's exhibit -- one of the earlier 20 ones. 21 A. Part of Exhibit 3. 22 Q. Page 2. In the box where it's checked that 23 statements of witnesses would be provided, and I believe 24 you said the latter part of that document said ten days 25 before trial; is that right?</p>

<p style="text-align: right;">92</p> <p>1 Q. Is it a fair statement to say that you didn't 2 know that Ray Spencer had been fired as of January 8th, 3 1985?</p> <p>4 A. Well, just looking at these documents, that 5 appears to be the situation, because I sent the letter 6 to Mr. Malang after he had been fired saying that we 7 were asking them to review the case because he was a 8 member of the Vancouver Police Department. So 9 apparently I didn't know he had been fired.</p> <p>10 Q. Right. And isn't it true that Barb Linde could 11 be brought in with Mr. Peters to try the case, but it's 12 Mr. Peters who's in charge of the case up to and if 13 there is a trial?</p> <p>14 A. No. When we gave the case to King County, it 15 became their case.</p> <p>16 Q. And they filed appearances?</p> <p>17 A. It was our intent that they would try the case, 18 and we were trying to find a trial date that would work 19 for them so that we could relay that back to the judge.</p> <p>20 Q. And then at a certain point, then, you decide 21 to take the case back, correct?</p> <p>22 A. Yes.</p> <p>23 Q. Well, we'll just subpoena the King County 24 prosecutor's trial file for this. I'm sure that will 25 make it clear to us their involvement in the case.</p>	<p style="text-align: right;">94</p> <p>1 prosecution?</p> <p>2 A. No, I don't believe I did.</p> <p>3 Q. To your knowledge, did Defendant Davidson or 4 did Michael Davidson pressure the prosecutor's office in 5 any way to file criminal charges against Clyde Ray 6 Spencer?</p> <p>7 A. Absolutely not.</p> <p>8 Q. To your knowledge, did he play any role 9 whatsoever in the prosecutor's office's decision to file 10 criminal charges against Clyde Ray Spencer?</p> <p>11 A. No. And we did not.</p> <p>12 Q. I just have one last question, and that's if 13 you could go back to Exhibit 3, the omnibus motion or 14 application, I should say, and order of the court, and 15 I'll direct your attention to the third page of that. 16 You were testifying earlier about believing there might 17 be a continuance of the trial date at the time this 18 order was signed on January 25th of 1985. If you look 19 at the bottom of the third page of that application, 20 does that refresh your memory in any way regarding a 21 continuance of the trial?</p> <p>22 A. You're at the bottom of the third page?</p> <p>23 Q. Yes, under Item 23, additionally.</p> <p>24 A. It says that they want to have a hearing to 25 determine whether the victim is competent to testify at</p>
<p style="text-align: right;">93</p> <p>1 Is there anything else that you want to add 2 about the King County involvement, other than the 3 documents you've looked at?</p> <p>4 MR. FREIMUND: I object to the form of that 5 question.</p> <p>6 Go ahead and answer, if you can.</p> <p>7 THE WITNESS: I have nothing to add.</p> <p>8 MS. ZELLNER: I don't have anything else.</p> <p>9 MR. FREIMUND: I did have a follow-up, I'm 10 sorry, Mr. Curtis.</p> <p>11</p> <p>12 EXAMINATION</p> <p>13 BY MR. FREIMUND:</p> <p>14 Q. My name is Jeff Freimund, and I represent one 15 of the other defendants, Mike Davidson.</p> <p>16 Did you interact with Mike Davidson as the 17 Clark County prosecutor?</p> <p>18 A. Yes.</p> <p>19 Q. To your knowledge, what role, if any, did Mike 20 Davidson have in the criminal investigation related to 21 Clyde Ray Spencer?</p> <p>22 A. I think, if anything, he was acting in a 23 supervisory capacity.</p> <p>24 Q. Did you, to your recollection, ever meet Mr. 25 Davidson to discuss the Spencer investigation or</p>	<p style="text-align: right;">95</p> <p>1 trial and for a continuance of the trial date.</p> <p>2 Q. What does that tell you about the prosecution's 3 obligation at that point to disclose statements by the 4 prosecution's witnesses and the timing of doing so?</p> <p>5 A. Well, in conjunction with the last page where 6 the parties agree to provide information by ten days 7 before trial, it appears to me that a continuance of the 8 trial date had already been discussed with the defense 9 counsel and that the trial date set in January would not 10 be occurring.</p> <p>11 Q. And from looking at Exhibit 28, your notes from 12 April 4, 1985, and a call with Barbara Linde, was it 13 your understanding that there was also discussions 14 occurring about continuing the trial again that was at 15 least at that time, I believe, set for May?</p> <p>16 A. Yes, because we were discussing when would be a 17 good time for her to come down to trial, and she said 18 the last week of May and the first week of June would 19 not be good for her, so we obviously were contemplating 20 continuing the trial date to some future date.</p> <p>21 Q. And again, going back to the omnibus order, 22 with those considerations in mind, does that in any way 23 affect your understanding of what the obligation would 24 be on the prosecutor's office to provide the 25 information, including witness statements and medical</p>

## CERTIFICATE

STATE OF WASHINGTON )  
 ) ss.  
County of Clark )

I, the undersigned Washington Certified Court Reporter, pursuant to RCW 5.28.010 authorized to administer oaths and affirmations in and for the State of Washington, do hereby certify:

That the annexed and foregoing deposition consisting of Pages 5 through 106 of the testimony of each witness named herein was taken stenographically before me and reduced to a typed format under my direction;

I further certify that according to CR 30(e) the witness was given the opportunity to examine, read and sign the deposition after the same was transcribed, unless indicated in the record that the review was waived;

I further certify that all objections made at the time of said examination to my qualifications or the manner of taking the deposition or to the conduct of any party have been noted by me upon each said deposition;

I further certify that I am not a relative or employee of any such attorney or counsel, and that I am not financially interested in the said action or the outcome thereof;

I further certify that each witness before examination was by me duly sworn to testify the truth, the whole truth and nothing but the truth;

I further certify that the deposition, as transcribed, is a full, true and correct transcript of the testimony, including questions and answers, and all objections, motions and exceptions of counsel made and taken at the time of the foregoing examination and was prepared pursuant to Washington Administrative Code 308-14-135, the transcript preparation format guideline;

1 I further certify that I am sealing the  
2 deposition in an envelope with the title of the above  
3 cause and the name of the witness visible, and I am  
4 delivering the same to the appropriate authority;

5 I further advise you that as a matter of firm  
6 policy, the Stenographic notes of this transcript will  
7 be destroyed three years from the date appearing on this  
8 Certificate unless notice is received otherwise from any  
9 party or counsel hereto on or before said date;

10 IN WITNESS WHEREOF, I have hereunto set my hand  
11 and affixed my Washington State CCR Seal this 14th day  
12 of December 2012.

13 Certified Court Reporter No. 2119  
14 in and for the State of Washington  
15 residing at Vancouver, Washington  
16 My CCR certification  
17 Expires 12-03-13  
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